

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Kristi Caravella, 954-797-2099

PREPARED BY: Kristi Caravella/Executive Assistant to the Town Administrator

SUBJECT: Resolution

AFFECTED DISTRICT: Townwide

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: CONTRACT EXTENSION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A ONE-YEAR EXTENSION OF THE CONTRACT BETWEEN THE TOWN AND LIMOUSINES OF SOUTH FLORIDA FOR THE EAST "GREEN ROUTE COMMUNITY BUS TRANSPORTATION SERVICES. (\$108,000)

REPORT IN BRIEF: The Town of Davie currently has an Agreement with Limousines of South Florida for the operation and maintenance of the Green route community bus. This Agreement will expire September 30, 2009. The staff and vendor would like to take advantage of the extension clause as stated in the Agreement for the second year extension of two one-year extensions.

PREVIOUS ACTIONS: Resolution 2008-263, 2008-200, 2005-265

CONCURRENCES: NONE

FISCAL IMPACT: Yes

Has request been budgeted? Yes

If yes, expected cost: \$108,000

Account name and number: Contractual Services

What account name and number will funds be appropriated from: 001-0108-544. 0306

RECOMMENDATION(S): Motion to approve resolution

Attachment(s): Resolution, Agreement (Exhibit A), Resolution 2008-263 and Vendor Letter

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE SECOND OF TWO ONE-YEAR EXTENSIONS TO THE AGREEMENT BETWEEN THE TOWN OF DAVIE AND LIMOUSINES OF SOUTH FLORIDA, INC. TO PROVIDE THE OPERATION AND MAINTENANCE OF THE COMMUNITY ROUTE FOR THE EAST "GREEN" ROUTE: AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town approved the Agreement between the Town of Davie and Limousines of South Florida, Inc. for operation and maintenance of the Green Route by Resolution R-2005-265; and

WHEREAS, the Town approved the extension of said Agreement for the first of two one-year extensions; and

WHEREAS, this Agreement expires on September 30, 2009; and

WHEREAS, the terms and conditions of the bid allow for two (2) additional one (1) year extensions by mutual agreement of the parties; and

WHEREAS, the Town and the contractor desire to exercise the option to extend the bid for its last renewal period of one (1) year.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council approves the final one (1) year extension of the bid with Limousines of South Florida, Inc. for operation and maintenance of the green Bus covering the period of October 1 2009, through September 30, 2010.

SECTION 2. This resolution shall take effect October 1, 2009.

PASSED AND ADOPTED THIS _____ DAY OF _____,
2009

Attest:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2009

Exhibit A

AGREEMENT

BETWEEN

LIMOUSINES OF SOUTH FLORIDA, INC

AND TOWN OF DAVIE

FOR OPERATION AND MAINTENANCE OF TRANSIT BUS SERVICE

THIS AGREEMENT dated the ____ day of _____, _____, and is between Quality Transport Services, Inc., a Florida corporation, hereinafter "Contractor" and the Town of Davie, a municipal corporation of the state of Florida, hereinafter referred to as "Town."

WHEREAS, Town desires to provide a community transportation service to allow residents access to a number of destinations through public transit: and

WHEREAS, Town has determined that it would be in the public interest to provide said transit services by contracting with a private transit service provider to operate said transportation service: and

WHEREAS, Town has selected Contractor for the operation and maintenance of the transit bus system which shall be known as the "Eastern Davie Transit Route."

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, Town and Contractor agree as follows:

ARTICLE 1
DEFINITIONS

1.1 "Agreement" means this Agreement as it may be modified from time to time.

1.2 "Contractor" means Limousines of South Florida, Inc, a Florida corporation.

1.3 "County" means Broward County, a political subdivision of the state of Florida.

1.4 "Town" means the Town of Davie, a municipal corporation of the state of Florida.

ARTICLE 2

CONTRACTOR'S SERVICES

2.1 Contractor agrees to provide all services necessary to provide for the day to day management, operation and maintenance of the public transportation services for the "Eastern Davie Transit Route" according to the Agreement between County and Town, a copy of which is attached to this Agreement and incorporated by reference as Exhibit "A." Contractor shall comply with every term, condition, duty and obligation set forth in Exhibit "A", including all attached exhibits to the Agreement.

2.2 Contractor shall provide free fare public transportation services (until such time as Town determines a fare to be appropriate), within the Town at the locations and according to the schedules set forth in Exhibit "A."

2.3 The established service shall be on a fixed route basis with designated intermediate stops a minimum of forty (40) hours per week and a minimum of five (5) days per week, provided however, the minimum hours of operation shall be reduced by eight (8) hours during any week in which Thanksgiving Day, Christmas Day, and New Years Day fall on a weekday. The public transportation service shall connect with regular County bus routes, as set forth on Exhibit "A."

The initial schedule for the "Eastern Davie Transit Route" is approximately twelve (12) hours per each weekday and eight (8) hours on Saturdays. The hours of operation may be amended from time to time at the discretion of the Town and County to respond to the needs of the community.

2.4 Beginning _____, 2005, Town and Contractor shall maintain a minimum average of five (5) passengers per revenue hour on each route operated by the Town and Contractor. In the event that Town and Contractor do not maintain such minimum average of passengers, County shall assist Town and Contractor to increase ridership which may include modification of the route, as set forth in Exhibit "A."

2.5 Vehicle(s) shall be operated by properly licensed operators ("vehicle chauffeurs") employed by Contractor. These employees shall provide full utilization of vehicle(s) to disabled passengers while in service.

2.6 Vehicle chauffeurs hired by Contractor shall issue County bus route timetables or other transit information to any passenger requesting such material.

2.7 Insofar as possible, scheduled service shall be coordinated with existing County bus service. It is the intent of the parties that Town's scheduled service shall not duplicate existing County bus service.

2.8 Contractor shall maintain the vehicle(s) provided by Town and County in accordance with manufacturer's standards and keep vehicle(s) in reasonable condition at all times, both inside and outside.

2.9 Contractor shall comply with all applicable requirements of the Americans with Disabilities Act (ADA) at all times while the vehicle(s) provided herein are being utilized for public transportation and while utilizing any and all routes approved herein. To the extent that any terms of this Agreement are inconsistent with the ADA, the requirements of the ADA shall control.

2.10 Contractor shall at all times during this Agreement comply with the requirements of Broward County Ordinance 92-8, pertaining to the maintenance of a Drug Free Work Place Program.

2.11 Contractor shall at all time during this Agreement comply with all applicable requirements of the United States Department of Transportation and the Federal Transit Administration, which shall include, but not be limited to, regulations for drug and alcohol testing. To the extent that any terms of this Agreement are inconsistent with the United States Department of Transportation regulations, the requirements of the United States Department of Transportation shall control.

2.12 Contractor agrees that throughout the term of this Agreement that the Broward County Transit (BCT) logo and the County assigned identification number shall be conspicuously displayed on the rear of the vehicle(s) at all times.

2.13 Contractor shall maintain certain records of information and data in the format prescribed by County and shall furnish such records to County. Contractor will submit a copy to Town, on a monthly basis and shall include a hard copy of daily trip sheets, daily vehicle inspection check list, and all invoices and/or proof of repairs done during the reporting period at the time of the monthly invoice. The

Contractor shall keep a daily log of complaints and shall send a weekly report detailing the complaints and the disposition of the complaints.

2.14 Contractor shall, at all times, have and maintain in proper working order a dedicated TTY number.

2.15 Contractor agrees to lock in the cost of service for the term of the contract.

ARTICLE 3

TOWN'S SERVICES

3.1 Town shall review all policies established by the Contractor relative to the public transportation services.

3.2 Town shall review the service planning, including adjustments to the routes, schedules and such other factors that affect the quality of service provided.

3.3 Town shall provide Contractor with bus route timetables prepared by Broward County Mass Transit Division sufficient to inform Town and County residents, visitors and passengers of service to be made available.

3.4 Town, in coordination with County, shall be responsible for designation of transit stops. It is understood that passengers will be able to board or depart from anywhere along the route as well as designated stops.

3.5 Town shall lease to Contractor two (2) wheelchair accessible, passenger vehicles, obtained from County, to be used in regular route service. Such vehicles shall comply with the Americans with Disabilities Act of 1990 and all applicable federal and state regulations. The vehicles shall be leased to the Contractor for Ten Dollars (\$10.00) per year. Prior to acceptance of the vehicles by Contractor, Contractor, at its own cost, shall have the right to inspect, or cause to be inspected, the vehicles by a mechanic designated by the Contractor.

3.6 Town shall provide the manufacturer's warranties and maintenance shop manuals to the Contractor.

ARTICLE 4

TERM AND TIME OF PERFORMANCE

The term of this Agreement shall begin on _____, 2005 and shall remain in effect until September 30, 2008. The Town is under no obligation to extend or renew this Agreement after its expiration. However, the term may be extended for up to two (2) additional one (1) year periods upon mutual written agreement.

ARTICLE 5

COMPENSATION

5.1 In return for services provided by Contractor and specified in this Agreement, the Town agrees to pay Contractor Limousines of South Florida, Inc. \$_____ per hour, per vehicle in revenue service. Contractor agrees to waive the first month's costs. The funds shall be used by Contractor solely for the purpose of maintaining, operating and properly equipping the vehicle(s) and for no other purpose. Town shall not be responsible for payment of any other monies to Contractor under this Agreement.

5.2 Town shall hold the funds distributed by County to support the public transportation service and remit the applicable amount of such funds monthly to Contractor as they become due. Contractor shall submit invoices to the Town documenting hours of service provided by the Contractor during the preceding month together with such additional documentation which may be required by the Town (e.g., ridership statistics). Within thirty (30) days of receipt of such invoices, Town shall compensate Contractor pursuant to the terms set forth herein.

5.3 Should the Town decide to add new buses or reassign existing buses, the Contractor shall agree to charge the Town the same compensation as quoted in this Agreement.

ARTICLE 6

PERFORMANCE STANDARDS

6.1 The public transportation service described in this Agreement must begin operations on _____, 2005 and such service shall run according to the schedule set forth in Exhibit B. The schedule shall be followed unless otherwise agreed upon in writing by the parties.

6.2 Contractor shall complete one hundred percent of all scheduled trips on a daily basis, subject to delays which are attributable to vehicular accidents, traffic conditions, weather, or mechanical failure.

ARTICLE 7
PERSONNEL REQUIREMENTS

7.1 Contractor shall designate a Project Manager who will oversee the complete operation of the public transportation service and who will serve as the day to day liaison with the Town.

7.2 Vehicle chauffeurs employed by the Contractor during the term of this Agreement shall be properly licensed operators. The vehicle chauffeurs shall possess the qualifications as required by the State of Florida and the County. The vehicle chauffeurs shall be required to attend and successfully complete the County's training program prior to operating the vehicles. All drivers shall, during the term of this Agreement possess the following qualifications and adhere to the following standards. Contractor shall immediately dismiss any driver from performing services under this Agreement if driver fails to maintain said qualifications or standards as listed below:

- 7.2.1 Minimum age for drivers shall be 21 years.
- 7.2.2 Drivers must possess a valid Florida Chauffeur's license and attain a valid commercial driver's license as required by law.
- 7.2.3 Drivers shall have no more than three (3) moving violations or accidents (counted individually or combined) within a five (5) year period. Drivers shall have no history of a conviction for a DUI.
- 7.2.4 Drivers must be capable of speaking, writing and understanding the English language fluently.
- 7.2.5 Drivers shall operate the vehicle in a safe and timely manner.
- 7.2.6 Drivers shall be courteous to all passengers and the general public at all times and shall respond to passenger questions regarding the use of the subject service.
- 7.2.7 At all times while on duty, drivers shall wear clean and presentable uniforms which include a company shirt, appropriate length shorts, skirt or pants and closed toe shoes.
- 7.2.8 Drivers shall distribute or collect flyers, handouts, surveys, etc. as Town may request from time to time.

- 7.2.9 Drivers shall not accept gratuities.
- 7.2.10 Drivers shall assist passengers with disabilities with entering and exiting the vehicles.
- 7.2.11 Drivers shall not permit passengers smoke or play a radio in the vehicles (unless the passenger is using headphones with the radio). Driver's shall not wear headphones, talk on the phone (except for business purposes) nor engage in any activity which may interrupt concentration while driving.
- 7.2.12 Drivers shall not be convicted of a crime during the term of this Agreement.
- 7.2.13 Drivers shall not test positive for drug use on a drug test administered by a responsible testing facility or in cooperation with the drug testing program at Broward County or the Town of Davie.

ARTICLE 8
CONDITION AND MAINTENANCE OF THE VEHICLES

8.1 Contractor shall maintain the vehicles in accordance with manufacturer's standards.

8.2 Contractor shall supply any additional vehicles to provide back-up service within thirty (30) minutes in the event that one or more vehicles are out of service. All backup vehicles will be ADA accessible should they be necessary to continue service as outlined in this contract.

8.3 Vehicles shall be maintained in good condition, both operationally and in their appearance, and in accordance with the County's requirements. All vehicles shall be kept in good repair and condition both inside and outside, satisfactory to the Town at a minimum to the standards listed below:

8.3.1 Equipping of vehicles:

8.3.1.1 All vehicles shall conform to the standards required by the Americans with Disabilities Act (ADA).

8.3.1.2 All vehicles shall be equipped with all appropriate safety equipment to be provided by Contractor.

8.3.1.3 All vehicles shall be equipped with two-way communications to be provided by Contractor.

8.3.1.4 All vehicles shall have heating and air conditioning systems that are fully operative every day the vehicle is in service. The air conditioning system shall be of sufficient size and capacity to provide a cooling effect throughout the vehicle, with cold air blowing in all sections of the vehicle.

8.3.2 Maintenance of Vehicles

8.3.2.1 The interiors of the vehicles shall be cleaned at least once each day and the exteriors of the vehicles shall be cleaned at least once per week. The vehicles shall be exterminated for pests at least once each week. Contractor shall have a continuing obligation to ensure cleanliness of the vehicles, and Contractor shall perform additional cleaning and extermination for pests as circumstances may warrant.

8.3.2.2 All vehicles and equipment on vehicles shall be maintained in fully operational condition at all times during the term of this Agreement. Contractor shall cause all components of each vehicle, including its frame, graphic wrap, furnishings, mechanical, electrical, hydraulic, or other operating systems to be maintained according to recommendations. Contractor shall cause any vehicle damaged in an accident or otherwise to be repaired to be immediately, including the graphic wraps. Contractor shall, at its sole cost and expense, provide fuel, lubricants, parts and supplies as required for the maintenance and operation of all vehicles.

8.3.2.3 All vehicles shall be safe for operation on public streets and highways and shall meet all requirements of the Florida Department of Transportation Rule Chapter 14-90, "Minimum Requirements for Transit Coaches and System Equipment." All parts of the vehicles and equipment mounted on or in the vehicle shall conform at a minimum to all applicable federal motor safety standards.

8.3.2.4 Contractor shall initiate and maintain an effective safety and mechanical inspection program.

8.3.2.5 All vehicles shall be available for inspection by the Town prior to Contractor placing them in service and at any time

thereafter at the Town's discretion. Town has the sole discretion to reject temporarily or permanently any vehicle which Town deems unacceptable for reasons of safety, disrepair or appearance.

ARTICLE 9

RECORD KEEPING, REPORTING AND AUDITING

9.1 Contractor shall maintain such records and accounts including property, personnel, and financial records as are deemed necessary by Town to ensure a proper accounting record. The system of accounting will be in accordance with generally accepted accounting principles and practices. All project records prepared by Contractor shall be owned by Town and made available to Town at no charge. Town may elect to authorize representatives to inspect, audit, and analyze the records of Contractor relating to the subject service. Town shall have the right to audit the books, records and accounts of the Contractor. Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the project or according to the scheduled reporting periods.

9.2 Contractor shall record on a daily basis and report immediately to the Town all disruptions in service, late service, vehicle breakdowns, accidents, vehicles out of service and any other incident affecting service.

9.3 Contractor's Project Manager shall also document passenger complaints and describe any actions taken to resolve such complaints on a weekly basis. Contractor agrees to submit copies of such documentation to Town on a weekly basis.

9.4 Contractor shall maintain daily records of total passenger utilization and total mileage logged on the vehicles by route while performing the services under this Agreement. Project Manager shall provide accurate reports on ridership by route and by trip to Town on a monthly basis.

9.5 Town shall approve Contractor's forms that may be required in addition to those required by the County.

9.6 In the event funds paid to Contractor pursuant to this Agreement are subsequently disallowed by Town because of accounting errors or charges not in conformity with this Agreement, Contractor shall refund promptly to the Town such disallowed funds or such disallowed funds will be withheld from subsequent payment by Town to Contractor. No payment will be withheld or disallowed until Town has given Contractor written notice of the reason

therefore and ten (10) days to correct, cure or otherwise reasonably satisfy Town. No more than the disputed amount will be withheld. Both Town and Contractor shall diligently pursue the resolution of any dispute regarding the accounting or charges referred to in this paragraph.

9.7 Contractor shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to the Agreement for a period of five (5) years after termination of this Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings.

ARTICLE 10

PRE-SERVICE REQUIREMENTS

The following items shall be delivered to the Town by Contractor at least two (2) days prior to the start of service and are subject to approval by the Town:

10.1 An operations manual for the subject services which describes all operations procedures and policies, including but not limited to the following:

- (A) Vehicle operating procedures
- (B) Communications operating procedures
- (C) Driver conduct rules and regulations
- (D) Safety procedures
- (E) Accident procedures;
- (F) Administration and reporting procedures; and
- (G) Other operating procedures and policies as required for proper operation of the subject service.

10.2 Job descriptions for drivers and administrative personnel.

10.3 Maintenance procedures for all vehicles.

10.4 Final system schedules.

10.5 Training procedures for drivers.

ARTICLE 11

INSURANCE

Contractor will comply with insurance requirements as set forth below:

11.1 Proof of insurance must be provided for Workers' Compensation, Commercial General Liability, Business Auto Liability, and Professional Liability. The Contractor shall carry in for at all times the insurance coverage and the Town and Broward County will be included as "Additional Insureds". Insurance requirements are as follows:

- A. Workers' Compensation- statutory
Policy must include Employers Liability: \$100,000 for each accident, \$500,000 disease (policy limit), and \$100,000 disease (each employee).
- B. Commercial General Liability: \$1,000,000 per occurrence combined single limit for bodily injury and property damage. Policy shall include coverage for premises/operations; contractual liability; and independent contractors.
- C. Business Auto Liability: \$1,000,000 per occurrence combined single limit for bodily injury and property damage. Policy shall include coverage for owned autos; hired autos; and non-owned autos.

11.2 Original certificates of insurance required herein shall be delivered to Town and County prior to the commencement of Contractor's performance. Contractor shall pay the premiums for all insurance required by this Agreement. Contractor shall cause all policies of insurance required by this Agreement to be renewed from time to time so that at all times the insurance protection required by this Agreement shall continuously exist. The policy shall not be canceled or materially changed without the giving of at least thirty (30) days prior written notice to Town and County, and in such event, a policy pursuant to the above terms must be substituted.

ARTICLE 12

INDEMNIFICATION

12.1 As to Town: Contractor agrees to indemnify, reimburse, defend and hold harmless the Town and, at Town's option, defend or pay for an

attorney selected by the Town to defend the Town and Town's officers, agents and employees for, from and against all claims, actions or causes of actions, losses, damages, liabilities, costs and expenses, including reasonable costs, attorneys' and paralegals' fees, imposed on or incurred by the Town in connection with any and all loss of life, bodily injury, personal injury and damage to property which arises or relates, directly or indirectly, to the Contractor's use of any vehicle provided for in this Agreement and the Contractor's performance of the services set forth in this Agreement. To the extent considered necessary by the Town, any sums due Town under this Agreement may be retained by Town until all of Town's claims for indemnification, pursuant to this Agreement, have been settled or otherwise resolved and any amount withheld shall not be subject to payment of interest by Town.

Nothing in this Agreement is intended to serve as a waiver of sovereign immunity by the Town. Nothing in this Agreement shall be construed as consent by the Town to be sued by third parties in any matter arising out of this Agreement or any other contract.

12.2 As to County: Contractor agrees to indemnify and hold harmless the County and County's officers, agents, and employees as prescribed in Exhibit "A".

ARTICLE 13

TERMINATION

13.1 This Agreement may be terminated for cause by action of Town upon thirty (30) days' written notice by the party that elected to terminate, or for convenience by action of Town Council upon not less than sixty (60) days' written notice. This Agreement may also be immediately terminated by Town upon such notice as Town deems appropriate under the circumstances in the event the Town determines that termination is necessary to protect the public health, safety, or welfare.

13.2 Termination of this Agreement for cause shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of Town as set forth in this Agreement, or breach of any of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

13.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by Town deemed necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

13.4 In the event this Agreement is terminated for convenience, the financial assistance provided by the Town shall be prorated on a daily basis to the date the Agreement is terminated. However, upon being notified of Town's election to terminate, Contractor acknowledges and agrees that \$10.00 compensation paid by Town, the adequacy of which is hereby acknowledged by Contractor, is given as specific consideration to Contractor for Town's right to terminate this Agreement for cause or convenience.

13.5 Upon termination of this Agreement for whatever reason, Contractor shall return the vehicle(s) leased herein to the Town. Contractor shall return the vehicle(s) to Town in the condition they were received at the onset of this Agreement, normal wear and tear excepted. The Contractor's obligation to return the vehicle(s) to the Town in the condition they were received shall include the removal of any painting or wrapping of the vehicles for advertisement purposes. Any costs necessary to restore and /or prepare the vehicle(s) shall be the sole responsibility of the Contractor. Town shall have the right to inspect and to approve the condition of the vehicle(s) prior to acceptance and should the Town determine that the vehicle is not in the proper condition, Contractor shall at its sole cost and expense remedy any and all deficiencies identified by the Town.

13.6 Contractor shall receive one written warning for failure to provide bus service for any period of twelve (12) consecutive hours. A second failure to provide bus service for a period of twelve (12) consecutive hours, or, a grand total of twenty-four (24) hours over a one-month period, shall constitute grounds for immediate dismissal.

ARTICLE 14 **NOTICES**

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this article. For the present the parties designate the following:

For Town of Davie:

Town Administrator
Town of Davie
6591 Orange Drive
Davie, Florida 33314

For Broward County:
(Courtesy copies of
notices)

Director of Mass Transit Division
Broward County Mass Transit Division
3201 West Copans Road
Pompano Beach, Florida 33069

For Limousines of South Florida, Inc. :

Mark Levitt, President
Limousines of South Florida, Inc.
2595 NW 38 Street
Miami, FL 33142

ARTICLE 15
MISCELLANEOUS

15.1 NONDISCRIMINATION: Contractor agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeships. Contractor agrees to furnish Town with a copy of its Affirmative Action Policy or in the event that Contractor contracts with a third party for this service, such third party's Affirmative Action Policy shall be furnished to Town.

15.2 INDEPENDENT CONTRACTOR: Contractor is an independent contractor under this Agreement. Services provided by Contractor shall be subject to the supervision of Contractor, and such services shall not be provided

by Contractor or its agents as officers, employees, or agents of the Town. The parties expressly acknowledge that it is not their intent to create any rights in any third person or entity under this Agreement.

15.3 ASSIGNMENT AND PERFORMANCE: Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and Contractor shall not subcontract any portion of the work required by this Agreement except as authorized herein.

Contractor represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in this Agreement and to provide and perform such services to Town's satisfaction.

Contractor shall perform its duties, obligation, and services under this Agreement in a skillful and respectable manner. The quality of Contractor's performance shall be comparable to the best local and national standards.

15.4 WAIVER OF BREACH AND MATERIALITY: Failure by Town to enforce any provision or modification of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

Town and Contractor agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

15.5 COMPLIANCE WITH LAWS: Contractor shall comply with all federal, state, and local laws, codes ordinances, rules and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

15.6 SEVERANCE: In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless Town or Contractor elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

15.7 JOINT PREPARATION: Preparation of this Agreement has been a joint effort of Town and Contractor and the resulting document shall not, solely

as a matter of judicial construction, be construed more severely against one of the parties than any other.

15.8 PRIORITY OF PROVISIONS: If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 15 of this Agreement shall prevail and be given effect.

15.9 APPLICABLE LAW AND VENUE: This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Venue for litigation concerning this Agreement shall be in Broward County, Florida.

15.10 AMENDMENTS: No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Town and Contractor.

15.11 PRIOR AGREEMENTS: This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms or conditions contained herein shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document in accordance with Section 15.10 above.

15.12 INCORPORATION BY REFERENCE: The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibit "A" is incorporated into and made a part of this Agreement. Pursuant to the provisions appearing in Exhibit "A", when any obligation or duty in that document is one which is related to the public transportation service, Contractor agrees to fully comply with each and every such obligation and duty for and on behalf of the Town.

ARTICLE 16

FINES

16.1 A schedule of fines the Town will assess against the Contractor as a consequence of the Contractor's failure to conform to the customer service requirements as outlined in the Agreement are as follows:

- a) Failure to provide backup service within thirty (30) minutes in the event that one or more vehicles are out of service as set forth in Section 8.2 shall result in a fine of \$30.00 per hour of affected bus.*
- b) Failure to provide heat or air conditioning as required by Section 8.3.1.4 shall result in a fine of \$30.00 per hour per affected bus. *
- c) Failure to maintain vehicles in accordance with Section 8.3.2.2 shall result in a fine of \$15.00 per hour per affected bus.*
- d) Failure to maintain transit schedule within a 15 minute window, excluding acts of weather, road construction/closing, or driver illness shall result in a fine of \$6.00 per bus per affected bus.*
- e) Failure to notify the Town regarding any changes in schedules shall result in a fine of \$6.00 per hour per affected bus.*

*All fines shall be prorated for any portion less than one (1) hour.

(Intentionally left blank)

IN WITNESS WHEREOF, the parties have made and executed this Agreement as of the date set forth on the first page of this Agreement.

TOWN
TOWN OF DAVIE

Attest

—

_____, 2005
Town Clerk

BY:_____

Mayor

_____day of

APPROVED AS TO

FORM:

—

BY:_____

Town Attorney

CONTRACTOR
LIMOUSINES OF SOUTH FLORIDA

—

Witness_____

BY:_____

Name:_____

Title:_____

—

RESOLUTION NO. R-2008-263

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN COUNCIL TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT MADE AND ENTERED INTO BY AND BETWEEN BROWARD COUNTY A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA AND THE TOWN FOR COMMUNITY BUS TRANSPORTATION SERVICES DATED AUGUST 6, 2003.

WHEREAS, The Town of Davie entered into a Public Transportation Agreement for the leasing of wheelchair accessible passenger vehicles from the County, to be used for a three (3) year term with two (2) additional one (1) year period extensions; and,

WHEREAS, This Agreement expired on September 30, 2008; and,

WHEREAS, The parties entered into a First Amendment which extended the termination date of the Agreement for the Blue Route until January 29, 2009, and provided for the elimination of the Green Route on October 30, 2008 ; and,

WHEREAS, The Town believes that Broward County Transportation should be using the current ridership numbers from 2008 instead of 2007; and,

WHEREAS, The parties desire to delay the elimination of the Green Route until additional information can be obtained to verify the ridership levels on the Green Route;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council hereby authorizes the Mayor or designee to execute an Agreement for a delay in the cancellation of the Green Route

SECTION 2. This Resolution shall take effect immediately upon signing.

PASSED AND ADOPTED THIS 5th DAY OF November, 2008


MAYOR/COUNCIL MEMBER

ATTEST:


TOWN CLERK

APPROVED THIS 5th DAY OF November, 2008

SECOND AMENDMENT

to

AGREEMENT

between

BROWARD COUNTY

and

TOWN OF DAVIE

for

PUBLIC TRANSPORTATION SERVICES

SECOND AMENDMENT
to
AGREEMENT
between
BROWARD COUNTY
and
TOWN OF DAVIE
for
PUBLIC TRANSPORTATION SERVICES

This is a Second Amendment to the Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

TOWN OF DAVIE, a municipal corporation organized and existing under the laws of the state of Florida, its successors and assigns, hereinafter referred to as "TOWN."

WHEREAS, COUNTY and TOWN entered into a Public Transportation Agreement for the leasing of wheelchair accessible, passenger vehicles to be used in regular route service, for a three year term, with two (2) additional one (1) year period extensions, which shall expire on September 30, 2008; and

WHEREAS, the parties entered into a First Amendment on September 30, 2008, which extended the termination date of the agreement until January 29, 2009, and provided for the elimination of Route "Green" on October 30, 2008; and

WHEREAS, the parties desire to delay the elimination of Route "Green" until additional information can be obtained to verify the ridership levels on Route "Green"; NOW, THEREFORE,

In consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and TOWN agree as follows:

1. That the recitals set forth above are true and correct and made a part of this Amendment.
2. That section 2.1.4 is hereby amended to read as follows:

2.1.4 The parties acknowledge that COUNTY's ridership figures relating to Route "Green" indicated that that Route "Green" did not meet the increased minimum average of 7.1 passengers per revenue service hour per vehicle during the previous Contract year and was therefore subject to elimination on October 30, 2008. County has determined it is necessary to gather additional information to verify the ridership figures prior to elimination of the Route "Green." and Route "Green" shall be eliminated on October 30, 2008. The elimination of Route "Green" shall be delayed and the operation of Route "Green" shall continue until TOWN is notified in writing that COUNTY has determined that the ridership figures relating to Route "Green" do not meet the increased minimum average of 7.1 passengers per revenue service hour. The notice shall include a date for elimination of Route "Green"; provided, however, that the parties acknowledge that the term of this Agreement shall expire on January 29, 2009, and all routes addressed within the Agreement shall expire on that date and no additional notice shall be necessary. During the period of this Amendment, TOWN shall maintain a minimum average of 7.1 passengers per revenue service hour per vehicle operated by TOWN on the remaining route(s). In the event that TOWN does not maintain such minimum average of passengers during the term of this Amendment, COUNTY may immediately terminate the same in accordance with the terms hereof and shall entitle COUNTY to pursue any and all other remedies provided under this Agreement or any remedies available to COUNTY at law or in equity.

3. That Section 2.6.1 is hereby amended to read as follows:

2.6 EQUIPMENT

2.6.1 COUNTY shall lease to TOWN ~~four (4)~~ six (6) wheelchair accessible, passenger vehicles to be used in regular route service as set forth in Exhibit "A." Such vehicle shall comply with the Americans with Disabilities Act of 1990 and all applicable federal and state regulations. This vehicle shall be leased to the TOWN for \$10.00 each per year. Prior to the acceptance of the vehicle by TOWN, TOWN at its own cost, shall have the right to inspect, or cause to be inspected, the vehicle by a mechanic designated by the TOWN. Upon notice from COUNTY of the date of elimination the discontinuance of Route "Green" on October 30, 2008, TOWN CITY shall promptly, but no later than November 15, 2008, ten (10) days from the date of elimination of Route "Green" as set forth in the notice, return two of the vehicles leased hereunder to COUNTY. TOWN shall

return the vehicles to COUNTY in the condition they were received at the onset of this Agreement, normal wear and tear excepted. TOWN's obligation to return the vehicles to COUNTY in the condition they were received shall include the removal of any painting or wrapping of the vehicle for advertisement purposes. Any costs necessary to restore and/or prepare the vehicle for return to COUNTY shall be the sole responsibility of TOWN. COUNTY, through its Maintenance Transit Manager, shall have the right to inspect and to approve the condition of the vehicle prior to acceptance and should the Maintenance Transit Manager determine that the vehicle is not in the proper condition, TOWN shall at its sole cost and expense remedy any and all deficiencies identified by the Maintenance Transit Manager.

4. Amended Exhibit "A" is hereby replaced in its entirety by Amended Exhibit "A-1" to reflect the continuation of Route "Green." In the event that COUNTY provides notice of elimination of Route "Green" as set forth in Section 2.1.4 above, Exhibit "A-1" shall be revised to reflect the elimination of Route "Green". In each instance in which Amended Exhibit "A" is referred to in the Agreement, said reference shall be deemed to be Exhibit "A-1."
5. Amended Exhibit "E" is hereby replaced in its entirety by Amended Exhibit "E-1" to reflect the continuation of Route "S." In the event that COUNTY provides notice of elimination of Route "Green" as set forth in Section 2.1.4 above, Exhibit "E-1" shall be revised to reflect the elimination of Route "Green." In each instance in which Amended Exhibit "E" is referred to in the Agreement, said reference shall be deemed to be Exhibit "E-1."
7. Except as otherwise set forth herein, the terms and conditions of the Agreement shall remain unchanged and in full force and effect between the parties.

(INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have made and executed this First Amendment to the Public Transportation Services Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Director of Department of Transportation, authorized to execute same by Board action on the 9th day of September, 2008, and TOWN OF DAVIE, signing by and through its _____, duly authorized to execute same.

COUNTY:

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and
Ex-Officio Clerk of the Board
of County Commissioners of
Broward County, Florida

By _____
Director, Department of Transportation

____ day of _____, 20____.

Approved as to Insurance
Requirements by Risk
Management Division

By _____

Approved as to form by
Office of County Attorney
Broward County, Florida
JEFFREY J. NEWTON, County Attorney
Governmental Center, Room 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

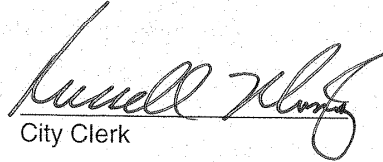
By _____
Sharon V. Thorsen
Senior Assistant County Attorney

SECOND AMENDMENT TO AGREEMENT BETWEEN BROWARD COUNTY AND TOWN OF DAVIE FOR PUBLIC TRANSPORTATION SERVICES

CITY:

ATTEST:

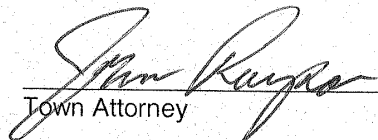
TOWN OF DAVIE


City Clerk

By 


5th day of November, 2008.

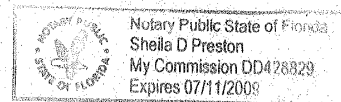
APPROVED AS TO FORM:


Town Attorney

STATE OF FLORIDA)
)
County of Broward)

The foregoing instrument was acknowledged before me, the undersigned notary public in and for the state of Florida, on this the 5th day of November, 2008, by TOM TRUEX and RUSSELL MUNIZ, the Mayor and Town Clerk, respectively.


Notary Public



SVT:
10/29/2008
g:\div\agree\2008secondrevisedDAVIE.doc
08-114.13

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Susan Dean, Programs Manager, 797-1042

THROUGH: Gary Shimun, Town, Administrator

SUBJECT: Amendment

AFFECTED DISTRICT: Town wide

TITLE OF AGENDA ITEM:

SECOND AMENDMENT TO THE AGREEMENT MADE AND ENTERED INTO BY AND BETWEEN BROWARD COUNTY A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA AND THE TOWN FOR COMMUNITY BUS TRANSPORTATION SERVICES DATED AUGUST 6, 2003.

REPORT IN BRIEF: On September 17, Council passed the First Amendment to the Agreement that cancelled Davie's East "Green" Route" on October 31, 2008 for insufficient ridership, and extended the West "Blue Route" until January 29, 2009. This Second Amendment rescinds the Green Route cancellation, and delays the termination date until the ridership numbers can be verified. In meetings with the County Commission during the month of September and October, the Town made it very clear that it was unfair to base the ridership on the 2007 numbers because the 2008 numbers reflected a significant increase in the number of users. This was well over 7.1.

PREVIOUS ACTIONS: Interlocal Agreement dated August 6, 2006
Amendment One to the Interlocal Agreement

CONCURRENCES:

FISCAL IMPACT:

Has request been budgeted? Yes

If yes, expected cost: \$The total of \$450,000 has been allocated for both the green and the blue routes.

RECOMMENDATION(S): Motion to approve resolution

Attachment(s): Resolution

Agreement and Amendment are available on request



July 10, 2009

Town of Davie
6591 Orange Drive
Davie, FL 33314

Atten: Susan Dean

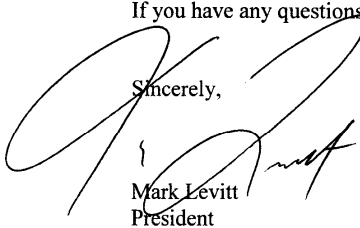
RE: Davie Green Route

Dear Ms. Dean,

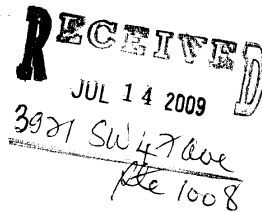
Per our existing agreement, this letter is to advise the Town of Davie that Limousines of South Florida would like to extend the existing agreement for the Green Route for the second additional one year period pursuant to our agreement.

If you have any questions, please feel free to contact me.

Sincerely,



Mark Levitt
President



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Website: www.limosofsouthfla.com • E-mail: luxuryservice@limosofsouthfla.com